

ORIGINAL

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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN MARIANA ISLANDS

1 UNITED STATES OF AMERICA,) CRIMINAL CASE NO. 03-00001-001
 2)
 3 Plaintiff,)
 4)
 5 vs.) Garapan, Saipan
 6) Wednesday, August 10, 2005
 7 VANN LE,)
 8 Defendant.) REPORTER'S PARTIAL TRANSCRIPT OF
 9) DEFENDANT'S MOTION TO DISMISS FOR
 10) LACK OF JURISDICTION

11 BEFORE THE HONORABLE SENIOR CIRCUIT JUDGE
 12 A. WALLACE TOSHIMA FOR THE NINTH CIRCUIT COURT OF APPEALS
 13 SITTING AT UNITED STATES DISTRICT COURT
 14 FOR THE NORTHERN MARIANA ISLANDS

APPEARANCES:

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FILED
 Clerk
 District Court

AUG 30 2005

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For The Northern Mariana Islands
 By _____
 (Deputy Clerk)

25 Present : Defendant Mr. Vann Le

SARAE N. SHMULL

Official Court Reporter
 P. O. BOX 5128
 SAIPAN, MP 96950

1 GARAPAN, SAIPAN, WEDNESDAY, AUGUST 10, 2005 - 11:10 A.M.

2 RULING

3 THE COURT: Yeah, but, you know, if it, if it goes to
4 jurisdiction, I mean, you just can raise that at any time. Here's my
5 ruling. As I said, you know, I think the motion is well crafted.
6 It's well put together. It's a sound argument. I think it's a very
7 close, close issue. But I'm denying the motion. But, you know, I
8 guess, you know, I think the issue has to be decided some time. I
9 think the issue is still open. I don't know how would, how I would
10 rule if I were, you know, if I had this case in the Ninth Circuit.
11 Let me put it that way. But here, I think given the history here and
12 the fact that the issue has been raised before and Judge Munson has
13 ruled on it before, this court has consistently, I think, taken the
14 position that the Hobbs Act -- like other, other criminal laws that
15 depend on the federal government's interstate commerce powers --
16 applies in the Commonwealth. So I am going to stay with that
17 position. But I encourage Mr. Long to pursue this.

18 I think it's, you know, it's an important issue. It may
19 have to, someday, has to be decided by the Supreme Court because if
20 you're right, Mr. Long, that the Hobbs Act doesn't apply here,
21 that -- and the reasoning would be because, as your motion explains,
22 the Interstate Commerce Act is not included as one of the provisions
23
24
25

1 of the Constitution that are, that apply to the Commonwealth. If
2 that's true, you know, then the whole host of federal criminal laws,
3 I think, including all the drug laws and including, you know, fraud
4 laws and a lot of other statutes, I think, would not apply in the
5 Commonwealth either. So, I mean, those the possible -- all I'm
6 saying is those are the possible ramifications of this motion. So,
7 but I'm not reaching those today. I'm just saying, you know, it's a
8 well, it's a well, put together motion. And I, you know, some day,
9 it may succeed. But for now sitting as a judge of this court, I deny
10 the motion.
11

12 MR. LONG: Yes, Your Honor. And just for the record, to
13 clarify is that, we're limiting this motion to federal statutes that
14 have specifically has that jurisdictional hook. I understand --
15

16 THE COURT: I understand that.

17 MR. LONG: -- that you --
18

19 THE COURT: I understand that but nevertheless, you can't
20 ignore the ramifications of, you know, what that, what the ruling
21 would be, you know, based on. But I appreciate that. All right.

22 MR. LONG: Thank you, Your Honor.

23 THE COURT: But for now, the motion is denied. Okay? So
24 then this case is in recess until next Tuesday morning at 9:00 a.m.,
25 all right, and it'll be Judge Munson here, I assume. Thank you. (END

OF RULING)

1
2 COMMONWEALTH OF THE)
3 NORTHERN MARIANA ISLANDS) ss.
4 SAIPAN, MP)
5 _____)
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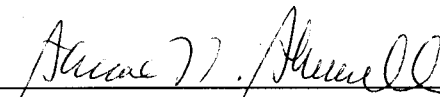
8 I, SANAE N. SHMULL, Official Court Reporter for the
9 United States District Court for the Northern Mariana Islands, do
10 hereby certify:

11 That the foregoing RULING on defendant's Motion to Dismiss
12 for Lack of Jurisdiction in Criminal Case No. 03-00001, *United States*
13 *of America v. Vann Le*, consisting 3 pages, was taken down by me
14 stenographically with a back-up tape recording device at the time and
15 place indicated herein.

16 That the foregoing transcript is a true and correct
17 record of the proceeding transcribed by me to the best of my ability.

18 I further certify that I am not interested in the
19 events of the action.

20 IN WITNESS WHEREOF, I have subscribed my name and
21 signature this 27th day of August 2005.
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23
24
25



SANAE N. SHMULL
Official Court Reporter